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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/757,926

01/10/2001

Stuart Mandel Garland

47-10

8084

7590

10/17/2006

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EXAMINER

DUONG, THOMAS

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/757,926

Applicant(s)

GARLAND ET AL.

Examiner

Thomas Duong

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2 and 8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to the applicants Amendment filed on July 28, 2006.  
Applicant amended *claims 2 and 8* and canceled *claims 1, 5, 7, and 11*. *Claims 2 and 8* are presented for further consideration and examination.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. *Claims 2 and 8* are rejected under 35 U.S.C. 102(e) as being unpatentable over Nguyen (US006377978B1).
4. With regard to *claims 2 and 8*, Nguyen discloses,
  - *if the customer station is idle, delivering a message directly to the customer station*; (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43)

Nguyen discloses, *"the mail client 130 transmits a request to the mail server 110, requesting transmission of the headers 141 for any electronic mail messages 140 which have been received and are available for downloading. In a preferred embodiment, the mail client 130 transmits such a request when it is first invoked, at periodic times, and when the operator so requests"* (Nguyen, col.5, lines 13-19). In addition, Nguyen discloses, *"the mail client 130 receives headers 141 from the mail server 110 and presents those headers 141 in the header window 151 to the operator"* (Nguyen, col.5, lines 21-23). Hence, Nguyen teaches of the mail client capable of automatically retrieving the headers of electronic mail messages available for download from the server and presenting them in a header window to the operator.

- *if the customer station is busy receiving another message, determining a precedence level for a received message, and storing the received message in storage associated with that precedence level;* (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43).

Nguyen discloses, *"in a preferred embodiment, the mail client 130 dynamically orders the electronic mail messages 140 for downloading, and selects those electronic mail messages 140 for downloading which the mail client 130 dynamically considers should be downloaded first"* (Nguyen, col.6, lines 60-64).

In addition, Nguyen discloses, *"the mail client 130 selects individual electronic mail messages 140 and transmits requests to the mail server 110 to download those individual electronic mail messages 140. As the electronic mail messages 140 are downloaded, they are stored in the client storage 132"* (Nguyen, col.5, lines 24-29). Hence, Nguyen teaches of classifying the headers of electronic

mail messages by their downloading preferences and their relative priorities, downloading and storing the electronic mail messages from the mail server, and presenting them to the operator for viewing accordingly.

- *if the customer station is busy receiving said another message, notifying the customer that said message is being received by a system for storing received messages; (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43)*

Nguyen discloses, *“when the mail client 130 receives the headers 141, it reviews the downloading preferences and their relative priorities, and downloads those electronic mail messages 140 which are indicated by the downloading preferences in the order of their relative priorities”* (Nguyen, col.7, lines 26-31).

Hence, Nguyen teaches that, in the presence of an electronic mail message of higher priority, an alert from the mail client in the form of header or its preloading indicator is presented to the user for desired action, which may include immediate selection by the user and downloading of the electronic mail message by the mail client.

- *if said customer, responsive to said notifying, signals for immediate delivery of said message to said customer station, immediately delivering said message to said customer station; (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43)*

Nguyen discloses, *“the selection by the operator of a particular electronic mail message 140 for presentation takes priority over other download operations. The mail client 130 interrupts any other download operation to conduct the download operation requested by the operator. Thus, the mail client 130 may*

*interrupt downloading and presentation of the headers 141 in the header window 151, downloading of a different electronic mail message 140 selected for downloading by the mail client 130, or even downloading of a different electronic mail message 140 selected for downloading by the operator (but for which the operator has apparently decided is lower priority)* (Nguyen, col.5, lines 53-64). In addition, Nguyen discloses, *"the operator may explicitly select a particular electronic mail message 140 for downloading (e.g., while the operator reviews a different electronic mail message 140)"* (Nguyen, col.7, lines 5-9). Hence, Nguyen teaches of the mail client capable of immediately interrupting any other download operation to conduct the download operation requested by the operator. This includes interrupting the download of any current message selected for downloading or even being viewed by the operator in favor of another message, which the operator decided is of higher priority based on the selected *"downloading preferences in order of their relative priorities"* (Nguyen, col.7, lines 30-31) such as an electronic mail message marked 'urgent'.

- *subsequently, when the customer station is idle, delivering messages to the customer station from storage of higher precedence level before delivering messages from storage of lower precedence level;* (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43)

Nguyen discloses, *"in a preferred embodiment, the mail client 130 dynamically orders the electronic mail messages 140 for downloading, and selects those electronic mail messages 140 for downloading which the mail client 130 dynamically considers should be downloaded first"* (Nguyen, col.6, lines 60-64). In addition, Nguyen discloses, *"dynamic downloading of electronic messages 140*

*continues so long as there are electronic messages 140 available at the email server 110 for which the operator is the intended destination"* (Nguyen, col.6, lines 11-14). Hence, Nguyen teaches of the mail client continuing to download the electronic mail messages by their downloading preferences and priorities so long as there is electronic mail message intended for the operator remaining on the mail server.

- *wherein certain classes of messages also have a preemption level, wherein if said customer station receives a message with a preemption level, the reception of said another message is interrupted if the precedence level of the received message is above a precedence level of said another message currently being received by the customer, unless the customer, responsive to said notifying, signals for a deferral of delivery of said message.* (Nguyen, col.2, lines 24-42; col.2, line 51 – col.6, line 14; col.6, line 60 – col.7, line 43)

Nguyen discloses, *"the selection by the operator of a particular electronic mail message 140 for presentation takes priority over other download operations.*

*The mail client 130 interrupts any other download operation to conduct the download operation requested by the operator. Thus, the mail client 130 may interrupt downloading and presentation of the headers 141 in the header window 151, downloading of a different electronic mail message 140 selected for downloading by the mail client 130, or even downloading of a different electronic mail message 140 selected for downloading by the operator (but for which the operator has apparently decided is lower priority"* (Nguyen, col.5, lines 53-64). In addition, Nguyen discloses, *"the operator may explicitly select a particular electronic mail message 140 for downloading (e.g., while the operator reviews a*

*different electronic mail message 140)*" (Nguyen, col.7, lines 5-9). Hence, Nguyen teaches of the mail client capable of immediately interrupting any other download operation to conduct the download operation requested by the operator. This includes interrupting the download of any current message selected for downloading or even being viewed by the operator in favor of another message, which the operator decided is of higher priority based on the selected *"downloading preferences in order of their relative priorities"* (Nguyen, col.7, lines 30-31) such as an electronic mail message marked 'urgent'. Thus, if the operator chose not to interrupt the downloading of the current mail message or decided to continue viewing the current mail message, then the electronic mail message marked 'urgent' is, in effect, "deferred" for later downloading and viewing.

### ***Response to Arguments***

5. Applicant's arguments with respect to *claims 2 and 8* have been considered but they are not persuasive.
6. With regard to *claims 2 and 8*, the Applicants point out that:
  - *Applicants' attorney has been unable to find any reference in these passages to preemption. For example, while the "Operation" section does discuss the alteration of the normal sequence of presentation of messages to the operator (column 5, lines 55-57: "The mail client 130 interrupts any other download operation to conduct the download operation requested by the operator"), the alteration is one wherein the operator interrupts the downloading, not as recited*



*in claims 2 and 8 the operator forces the system to its downloading of the preempting message.*

However, the Examiner finds that the Applicants' arguments are not persuasive because Nguyen discloses, *"the selection by the operator of a particular electronic mail message 140 for presentation takes priority over other download operations. The mail client 130 interrupts any other download operation to conduct the download operation requested by the operator. Thus, the mail client 130 may interrupt downloading and presentation of the headers 141 in the header window 151, downloading of a different electronic mail message 140 selected for downloading by the mail client 130, or even downloading of a different electronic mail message 140 selected for downloading by the operator (but for which the operator has apparently decided is lower priority)"* (Nguyen, col.5, lines 53-64). In addition, Nguyen discloses, *"the operator may explicitly select a particular electronic mail message 140 for downloading (e.g., while the operator reviews a different electronic mail message 140)"* (Nguyen, col.7, lines 5-9). Hence, Nguyen teaches of the mail client capable of immediately interrupting any other download operation to conduct the download operation requested by the operator. This includes interrupting the download of any current message selected for downloading or even being viewed by the operator in favor of another message, which the operator decided is of higher priority based on the selected *"downloading preferences in order of their relative priorities"* (Nguyen, col.7, lines 30-31) such as an electronic mail message marked 'urgent'. Thus, if the operator chose not to interrupt the downloading of the current mail message or decided to continue viewing the current mail message, then the electronic mail message marked 'urgent' is, in effect, "deferred" for later downloading and viewing.

**Conclusion**

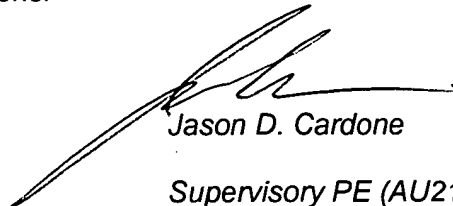
7. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

*Thomas Duong (AU2145)*

*October 11, 2006*



*Jason D. Cardone*  
*Supervisory PE (AU2145)*